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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

TRACY WATSON, et al.,)	No. C06-4029 RMW
Plaintiffs,)	STIPULATED PROTECTIVE ORDER
v.)	
COUNTY OF SANTA CLARA, et al.)	
Defendants.)	

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information, including confidential juvenile court records, for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. The Santa Clara County Superior Court has authorized the parties to use certain juvenile court records, subject to this Stipulated Protective Order. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends

only to the limited information or items that are entitled under the applicable legal principles to treatment as confidential. The parties further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates no entitlement to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards that will be applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1 Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and outside counsel (and their support staff).

2.2 Disclosure or Discovery Material: all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, or tangible things) that are produced or generated in disclosures or responses to discovery in this matter.

2.3 "Confidential" Information or Items: information (regardless of how generated, stored or maintained) or tangible things that qualify for protection under standards developed under F.R.Civ.P. 26(c).

2.4 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

2.5 Producing Party: a Party or non-party that produces Disclosure or Discovery Material in this action.

2.6 Designating Party: a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as "Confidential" or "Highly Confidential — Attorneys' Eyes Only."

2.7 Protected Material: any Disclosure or Discovery Material that is designated as "Confidential."

2.8 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action and who is not a past or a current employee of a Party or

1 of a competitor of a Party's and who, at the time of retention, is not anticipated to become an
 2 employee of a Party or a competitor of a Party's. This definition includes a professional jury or
 3 trial consultant retained in connection with this litigation.

4 3. SCOPE

5 The protections conferred by this Stipulation and Order cover not only Protected Material
 6 (as defined above), but also any information copied or extracted therefrom, as well as all copies,
 7 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
 8 parties or counsel to or in court or in other settings that might reveal Protected Material.

9 4. DURATION

10 Even after the termination of this litigation, the confidentiality obligations imposed by this
 11 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
 12 order otherwise directs, based on its own motion or a motion brought by a Designating Party.

13 5. DESIGNATING PROTECTED MATERIAL

14 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each

15 Party or non-party that designates information or items for protection under this Order must take
 16 care to limit any such designation to specific material that qualifies under the appropriate
 17 standards. A Designating Party must take care to designate for protection only those parts of
 18 material, documents, items, or oral or written communications that qualify – so that other
 19 portions of the material, documents, items, or communications for which protection is not
 20 warranted are not swept unjustifiably within the ambit of this Order.

21 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
 22 shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to
 23 unnecessarily encumber or retard the case development process, or to impose unnecessary
 24 expenses and burdens on other parties), expose the Designating Party to sanctions.

25 If it comes to a Party's or a non-party's attention that information or items that it
 26 designated for protection do not qualify for protection at all, or do not qualify for the level of
 27 protection initially asserted, that Party or non-party must promptly notify all other parties that it
 28 is withdrawing the mistaken designation.

1 5.2 Manner and Timing of Designations. Except as otherwise provided in this
 2 Order (~~see, e.g., second paragraph of section 5.2(a), below~~), or as otherwise stipulated or
 3 ordered, material that qualifies for protection under this Order must be clearly so designated
 4 before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (apart from transcripts of
 7 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
 8 “CONFIDENTIAL” at the top of each page that contains protected material. If only a portion or
 9 portions of the material on a page qualifies for protection, the Producing Party also must clearly
 10 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

11 (b) for testimony given in deposition or in other pretrial or trial proceedings,
 12 that the Party or non-party offering or sponsoring the testimony identify on the record, before
 13 the close of the deposition, hearing, or other proceeding, all protected testimony. When it is
 14 impractical to identify separately each portion of testimony that is entitled to protection, and
 15 when it appears that substantial portions of the testimony may qualify for protection, the Party
 16 or non-party that sponsors, offers, or gives the testimony may invoke on the record (before the
 17 deposition or proceeding is concluded) a right to have up to 20 days to identify the specific
 18 portions of the testimony as to which protection is sought. Only those portions of the testimony
 19 that are appropriately designated for protection within the 20 days shall be covered by the
 20 provisions of this Stipulated Protective Order.

21 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
 22 designate qualified information or items as “Confidential” does not, standing alone, waive the
 23 Designating Party’s right to secure protection under this Order for such material. If material is
 24 appropriately designated as “Confidential” after the material was initially produced, the
 25 Receiving Party, on timely notification of the designation, must make reasonable efforts to
 26 assure that the material is treated in accordance with the provisions of this Order.

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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
3 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
4 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
5 waive its right to challenge a confidentiality designation by electing not to mount a challenge
6 promptly after the original designation is disclosed.

7 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
8 Party's confidentiality designation must do so in good faith and must begin the process by
9 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient)
10 with counsel for the Designating Party. In conferring, the challenging Party must explain the
11 basis for its belief that the confidentiality designation was not proper and must give the
12 Designating Party an opportunity to review the designated material, to reconsider the
13 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
14 designation. A challenging Party may proceed to the next stage of the challenge process only if
15 it has engaged in this meet and confer process first.

16 6.3 Judicial Intervention. A Party that elects to press a challenge to a
17 confidentiality designation after considering the justification offered by the Designating Party
18 may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule
19 79-5, if applicable) that identifies the challenged material and sets forth in detail the basis for
20 the challenge. Each such motion must be accompanied by a competent declaration that affirms
21 that the movant has complied with the meet and confer requirements imposed in the preceding
22 paragraph and that sets forth with specificity the justification for the confidentiality designation
23 that was given by the Designating Party in the meet and confer dialogue.

24 The burden of persuasion in any such challenge proceeding shall be on the
25 Designating Party. Until the court rules on the challenge, all parties shall continue to afford the
26 material in question the level of protection to which it is entitled under the Producing Party's
27 designation.

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1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a non-party in connection with this case only for
4 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
5 disclosed only to the categories of persons and under the conditions described in this Order.
6 When the litigation has been terminated, a Receiving Party must comply with the provisions of
7 section 11, below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a location
9 and in a secure manner that ensures that access is limited to the persons authorized under this
10 Order.

11 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
12 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
13 disclose any information or item designated CONFIDENTIAL only to:

14 (a) the Receiving Party's Counsel of record in this action, or if the Receiving
15 Party is a pro per litigant, the pro per litigant as well as employees of said Counsel and/or pro
16 per litigant to whom it is reasonably necessary to disclose the information for this litigation and
17 who have signed the "Agreement to Be Bound by Protective Order" that is attached hereto as
18 Exhibit A;

19 (b) the officers, directors, and employees of the Receiving Party to whom
20 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
21 Bound by Protective Order" (Exhibit A);

22 (c) experts (as defined in this Order) of the Receiving Party to whom
23 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
24 Bound by Protective Order" (Exhibit A);

25 (d) the Court and its personnel;

26 (e) court reporters, their staffs, and professional vendors to whom disclosure
27 is reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
28 Protective Order" (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author of the document or the original source of the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION.

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as “CONFIDENTIAL,” the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

The Receiving Party also must immediately inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that caused the subpoena or order to issue.

The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued.

9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and

1 Agreement to Be Bound” that is attached hereto as Exhibit A.

2 10. FILING PROTECTED MATERIAL.

3 Without written permission from the Designating Party or a court order secured after
4 appropriate notice to all interested persons, a Party may not file in the public record in this
5 action any Protected Material. A Party that seeks to file under seal any Protected Material must
6 comply with Civil Local Rule 79-5.

7 11. FINAL DISPOSITION.

8 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days
9 after the final termination of this action, each Receiving Party must return all Protected Material
10 to the Producing Party. As used in this subdivision, “all Protected Material” includes all copies,
11 abstracts, compilations, summaries or any other form of reproducing or capturing any of the
12 Protected Material. With permission in writing from the Designating Party, the Receiving Party
13 may destroy some or all of the Protected Material instead of returning it. Whether the Protected
14 Material is returned or destroyed, the Receiving Party must submit a written certification to the
15 Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day
16 deadline that identifies (by category, where appropriate) all the Protected Material that was
17 returned or destroyed and that affirms that the Receiving Party has not retained any copies,
18 abstracts, compilations, summaries or other forms of reproducing or capturing any of the
19 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival
20 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney
21 work product, even if such materials contain Protected Material. Any such archival copies that
22 contain or constitute Protected Material remain subject to this Protective Order as set forth in
23 Section 4 (DURATION), above.

24 12. MISCELLANEOUS

25 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person
26 to seek its modification by the Court in the future.

27 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
28 Order no Party waives any right it otherwise would have to object to disclosing or producing

1 any information or item on any ground not addressed in this Stipulated Protective Order.
2 Similarly, no Party waives any right to object on any ground to use in evidence of any of the
3 material covered by this Protective Order.
4

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**
6

7 Dated: March 22, 2007

/S/
PETER JOHNSON
Attorney for Plaintiffs

10 Dated: March 22, 2007

/S/
MELISSA KINIYALOCKS
Attorney for County Defendants

13 Dated: March 22, 2007

/S/
JACQUELYN K. WILSON
Attorney for Evergreen School District Defendants

16 Dated: March 22, 2007

/S/
CLIFF GREENBERG
Attorney for City of San Jose Defendants

19
20 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

21
22 Dated: 4/9/07


THE HONORABLE HOWARD R. LLOYD
United States Magistrate Judge

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 [print or type full address], declare under penalty of perjury that I have read in its entirety and
 understand the Stipulated Protective Order that was issued by the United States District Court
 for the Northern District of California on _____ in the case of *Watson v. Santa*
Clara County; Case No. C06-4029RMW. I agree to comply with and to be bound by all the
 terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
 comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
 promise that I will not disclose in any manner any information or item that is subject to this
 Stipulated Protective Order to any person or entity except in strict compliance with the
 provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
 Northern District of California for the purpose of enforcing the terms of this Stipulated
 Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
 _____ [print or type full address and telephone
 number] as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
 [printed name]

Signature: _____
 [signature]